

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-24-04.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 6-24-04, therefore the following date of service is not timely and is not eligible for this review: 6-23-03.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program from 7-1-03 through 7-23-03 was not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 9-13-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- CPT code 97545-WH-AP for dates of service 6-24-03, 6-25-03, 6-26-03, 6-30-03 and 7-14-03 was denied by the carrier. However, neither the party submitted copies of EOB's. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service and submission to the insurance carrier on this date. **Reimbursement is recommended in the amount of \$640.00 in accordance with the Fee Guidelines.**
- CPT code 97546-WH-AP for dates of service 6-24-03, 6-25-03, 6-26-03, 6-30-03 and 7-14-03 was denied by the carrier. However, neither the party submitted copies of EOB's. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service and submission to the insurance carrier on this date. **Reimbursement is recommended in the amount of \$1600.00 in accordance with the Fee Guidelines.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 15<sup>th</sup> day of October 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

August 16, 2004

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

Re: Medical Dispute Resolution  
MDR #: M5-04-3606-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.:

Dear

\_\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## **REVIEWER'S REPORT**

### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: H&P, FCE's and work hardening notes.

Information provided by Respondent: correspondence and designated doctor exam.

### **Clinical History:**

After sustaining a low back injury at work on \_\_\_\_, the claimant underwent 15 passive therapy treatments and was then placed in an intensive work hardening program that began on 06/09/03.

### **Disputed Services:**

Work hardening program from 07/01/03 through 07/23/03.

### **Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the work hardening program from 07/01/03 through 07/23/03 was not medically necessary in this case.

### **Rationale:**

Extensive medical records were submitted for review, but they consisted primarily of the records that were generated during the work hardening program itself. Since no treatment records leading up to the work hardening program were supplied, there is no documentation to support the medical necessity of the treatments.

Although the three functional capacity evaluations showed some very limited improvement from 06/06/03 to 07/25/03, those slight gains would most certainly have also occurred with a home exercise program or a short course of active therapy consisting of therapeutic exercises. Therefore, the extensive work hardening program was without question, not indicated or medically necessary.

And finally, it is important to mention that active rehabilitative exercises can be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the services were required to be performed one-on-one. Furthermore, if active therapy had been medically necessary, it would not have been needed for near the time or intensity in this case.

Sincerely,